

Chapter 132V-22 WAC

FACULTY TENURE RIGHTS AND PROCEDURES

WAC

132V-22-010	Purpose—Tenure.
132V-22-020	Definitions.
132V-22-030	Composition of review committees.
132V-22-040	Duties and responsibilities of review committee.
132V-22-050	Procedure relating to the dismissal for cause of tenured and probationary faculty members.
132V-22-060	Preliminary procedure relating to the dismissal for cause of a tenured or probationary faculty member.
132V-22-100	Procedure relating to reduction in force.
132V-22-200	Hearing procedure relating to dismissal for cause and reduction in force.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

132V-22-070	Designation of administrative appointments. [Order 9, § 132V-22-070, filed 3/1/73; Order 3, § 132V-22-070, filed 5/29/70.] Repealed by Order 16, filed 12/28/73.
132V-22-080	Confidentiality of reports. [Order 3, § 132V-22-080, filed 5/29/70.] Repealed by Order 16, filed 12/28/73.
132V-22-110	Procedure. [Order 14, § 132V-22-110, filed 6/29/73.] Repealed by Order 16, filed 12/28/73.

WAC 132V-22-010 Purpose—Tenure. The board of trustees of Community College District 22 hereby establishes the following rules on academic employee tenure. The purpose of [tenure] is twofold:

(1) To protect faculty appointment rights and faculty involvement in the establishment and protection of those rights at Tacoma Community College and all subsequent community colleges hereafter established within Community College District 22; and

(2) To assure that tenure is granted to academic employees of such character and scholarly ability that the district, so far as its resources permit, can justifiably undertake to employ them for the rest of their academic careers.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-010, filed 3/19/81; Order 16, § 132V-22-010, filed 12/28/73; Order 3, § 132V-22-010, filed 5/29/70.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132V-22-020 Definitions. As used in this chapter, the following terms and definitions shall mean[:]

(1) "Appointing authority" shall mean the board of trustees of Community College District 22.

(2) The definitions of "tenure," "faculty appointment," "probationary faculty appointment," "probationer," and "administrative appointment," shall be the same as are contained within RCW 28B.50.851 as now or hereafter amended.

(3) "Regular college year" shall mean a faculty appointment normally inclusive of consecutive fall, winter, and spring quarters.

(4) "President" shall mean the president of Tacoma Community College [and of any other college hereafter

(3/19/81)

established within Community College] District 22, or in such president's absence, the acting president.

(5) "College" shall mean Tacoma Community College and any subsequent community college hereafter established within Community College District 22.

(6) "Tenure review committee" shall mean a committee composed of [three academic employees] who hold [tenured] faculty appointments a division chairman, or management supervisor and a student appointed pursuant to WAC 132V-22-030.

(7) "Full time" shall mean an appointment which is consistent with the full-time contractual assignment specified within Article 6.00 of the negotiated agreement.

(8) "Dismissal" shall mean the termination of a tenured faculty appointment or a probationary faculty appointment by the appointing authority.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-020, filed 3/19/81; Order 16, § 132V-22-020, filed 12/28/73; Order 9, § 132V-22-020, filed 3/1/73; Order 3, § 132V-22-020, filed 5/29/70.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132V-22-030 Composition of review committees. (1) A separate tenure review committee, which shall serve as a standing committee until such time as the appointment is terminated, shall be established for each full-time probationer.

(2) Each [tenure] review committee shall be composed of five persons: Three shall be tenured faculty appointees selected by a majority of the tenured faculty members and faculty department heads acting in a body prior to October 15 of the probationer's first full regular college year of employment; one shall be the probationer's division chairman (or his/her management supervisor if he/she is not supervised by a division chairman); one shall be a student representative who shall be a full-time student and who shall be chosen by the student association of the college in such a manner thereof shall determine. Each tenure review committee shall select its own chairman. If the elected chairman fails to perform his/her required duties in the time period specified, management shall appoint a chairman from among the other committee members to fulfill the responsibilities. Each review committee shall meet at the call of the chairman when, in his[/]her discretion, the need for such meeting arises, provided, that the committee shall meet with the probationer at least twice during each winter quarter. Additionally, the committee shall meet within ten days after the chairman receives the probationer's written request which states the purpose of the meeting.

(3) If a vacancy occurs upon any tenure review committee prior to the expiration of the probationer's appointment as

[Ch. 132V-22 WAC p. 1]

such, an administrative, faculty or student member, as appropriate, shall be appointed to fill the vacancy pursuant to subsection (2) of this rule to serve for the duration of the committee's obligation.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-030, filed 3/19/81; Order 16, § 132V-22-030, filed 12/28/73; Order 9, § 132V-22-030, filed 3/1/73; Order 3, § 132V-22-030, filed 5/29/70.]

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WAC 132V-22-040 Duties and responsibilities of review committee. (1) The general duty and responsibility of the tenure review committee shall be to assess and advise the probationer of his/her professional strengths and weaknesses and to make reasonable efforts to encourage and aid him/her to overcome his/her deficiencies.

(2) The first order of business for each tenure review committee shall be to establish the procedure it will follow in evaluating the performance and professional competence of the full-time probationer assigned thereto. The committee's evaluation of the probationer shall be directed toward and result in the determination of whether or not the probationer possesses the necessary personal characteristics and professional competence to perform effectively in his/her appointment. In determining professional competence, the committee shall give due consideration to the criteria under which the employee was hired, as established by the probationer's department, program, or advisory group. A review committee's evaluation procedures should include, as it deems necessary, the following:

(a) Classroom observations by members of the tenure review committee;

(b) Student evaluation administered by a member of the review committee;

(c) Assessment of the probationer's contributions to the department, program[,], division, and institution by the department or program, and division heads and other faculty; and

(d) Self-evaluation.

(3) Each tenure review committee shall be required to conduct an on-going evaluation of the full-time probationer assigned thereto and render the following written reports to the president, probationer, and the appointing authority on or before the designated times during each regular college year that such appointee is on a probationary status, or, as is also required, within fifteen days of the president's written request therefor:

(a) A written evaluation of each full-time probationary faculty appointee's performance, including the degree to which the probationer has overcome stated deficiencies, on or before February 15. The review committee shall obtain the appointee's written acknowledgment of receipt of the written evaluation.

(b) A written recommendation regarding the employment or nonemployment of the probationer for the ensuing regular college year on or before February 15.

(c) A written recommendation that the appointing authority award or not award tenure, such written recommen-

dations to be submitted during the regular college year deemed appropriate by each review committee, provided that during such probationer's third regular college year of appointment the review committee shall, prior to February 15 of such regular college year, make a written recommendation as to the award or nonaward of tenure. The failure of any review committee to make such written recommendation by February 15 of a probationer's third consecutive regular college year shall require that the probationer's supervising dean make a written recommendation as to the award or nonaward of tenure by the following February 25.

(4) The appointing authority shall be required to give reasonable consideration to any recommendation of a review committee and is not bound thereby.

(5) All written evaluations and recommendations prepared and submitted by a review committee pursuant to these rules shall include the committee's findings and supportive data and analysis.

(6) If the probationer disagrees with the review committee's recommendation as to the award or nonaward of tenure, the probationer shall be provided an opportunity to challenge the review committee's recommendations before a committee of the appointing authority.

(7) On or before the last day of the winter quarter of each regular college year of a probationary appointment, the appointing authority shall notify the probationer of their decision to either grant him/her tenure or not renew his/her appointment for the ensuing year.

(8) The decision of the appointing authority to not rehire a probationary academic employee for a second or third year of the probationary period or to not grant tenure is final, and the academic employee affected by this decision shall not have access to the hearing procedure relating to dismissal for cause and reduction in force as provided by section 12.32 of the negotiated agreement, but the academic employee may submit written appeal and appear, in person, at the next board meeting following such nonrenewal.

(9) As per chapter 112, Laws of 1975, 1st ex. sess., those academic employees funded more than fifty-one of their annual salaries by other than state funds are nontenurable, per WAC 131-16-400. Inclusion of this paragraph shall not limit the union in its court appeal of this law, rulings pursuant thereto and its effect on present employees in this category. Management will make every effort to shift presently affected employees to tenurable jobs as they become available. Management and the union agree to make necessary modifications in this section in order to bring it into compliance with subsequent court decisions, if any.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-040, filed 3/19/81; Order 16, § 132V-22-040, filed 12/28/73; Order 9, § 132V-22-040, filed 3/1/73; Order 3, § 132V-22-040, filed 5/29/70.]

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WAC 132V-22-050 Procedure relating to the dismissal for cause of tenured and probationary faculty members. A tenured faculty member shall not be dismissed by the college except for sufficient cause, nor shall a faculty

member who holds a probationary faculty appointment be dismissed prior to the written terms of the appointment except for sufficient cause. Sufficient cause may include, but is not limited to:

- (1) Demonstrated incompetency in his/her professional assignment;
- (2) Proven neglect of recognized duties;
- (3) Proven insubordination;
- (4) Diagnosed physical or mental inability to perform assigned duties[;][:]
- (5) Convicted of any unlawful act of violence during the period of employment;
- (6) Convicted of any unlawful act resulting in destruction of college property;
- (7) Convicted of any unlawful interference with the orderly conduct of the educational process.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-050, filed 3/19/81; Order 16, § 132V-22-050, filed 12/28/73; Order 3, § 132V-22-050, filed 5/29/70.]

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WAC 132V-22-060 Preliminary procedure relating to the dismissal for cause of a tenured or probationary faculty member. When reason arises to question the fitness of an academic employee, the initial step shall be for the appropriate administrative officer to discuss the matter with him/her in personal conference. At this conference, the academic employee may request the presence of a union representative. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, the case shall be referred to the president of the college. If the president of the college deems that the case warrants dismissal, the dismissal process shall be governed by the following procedure:

[(1)] At least fifteen calendar days prior to the effective date of the dismissal action and at least thirty days prior to the convening of the dismissal for cause committee, the academic employee, who is to be dismissed by the appointing authority, and the union shall be furnished with written notice which shall include grounds for dismissal, a statement of the legal authority and jurisdiction of the president's notice, and information of the employee's right of appeal. The notification shall be furnished directly to the employee during working hours, or shall be mailed by certified return receipt mail to the academic employee's last known address.

[(2)] A dismissal review committee will be established. The dismissal review committee shall be the same [as the] tenure review committee. If the tenure review committee is no longer available the dismissal review committee shall have the same membership as required for a tenure review committee for a probationary academic employee. The members representing the academic employees shall be selected by a majority of the academic employees and department chairmen acting as a body. The president shall deliver to the review committee the statement of charges provided to the employee.

[(3)] Remaining steps in the procedure for dismissal for cause of tenured or probationary faculty members are as specified in WAC 132V-22-200 of these rules.

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[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-060, filed 3/19/81; Order 16, § 132V-22-060, filed 12/28/73; Order 15, § 132V-22-060, filed 6/29/73; Order 3, § 132V-22-060, filed 5/29/70.]

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WAC 132V-22-100 Procedure relating to reduction in force. (1) Definition: A reduction in force is a dismissal of faculty members without prejudice and for adequate cause which shall include lack of funds and necessary curtailment of work.

(2) Layoff units and procedure for assignment:

(a) A full-time academic employee's assignment to a layoff unit will be that within which his/her job responsibility is classified.

(b) For the duration of this agreement, the layoff units and assignments thereto, as agreed to in the union-management meeting of February 3, 1974, or the most recent updating of those layoff units and assignments thereto, shall be used as the basis of reduction in force. A person may be assigned to only one layoff unit even though he/she is teaching in more than one unit.

(c) The institutional seniority list, which is to be published annually by November 1st of each year, under article 9 of the negotiated agreement, will also include the layoff unit to which an academic employee is currently assigned.

(3) Alternatives to reduction in force: Alternatives to reduction in force shall be implemented by management prior to the initiation of reduction in force procedures. The application of these alternatives will be handled through the appropriate division and department. A full-time employee will be given sections normally staffed by part-time employees before being offered other alternatives to reduction in force. Such alternatives may include, but not be limited to, those in article 6.00 of the negotiated agreement.

An academic employee's agreement to one or any combination of the above-referenced alternatives, or any other alternative agreed to, will be submitted in writing to the college president.

(4) Basis for reduction: If the number of full-time contracted academic employees is to be reduced, the college president, with advice from the appropriate supervising administrators and department chairmen shall determine in the case of each affected department or program what courses and services are most necessary to maintain quality education and services at Tacoma Community College. In making his determination on reductions, the college president shall consider the following factors:

(a) Budget limitations, lack of funds, change in instructional or service programs, or lack of students participating in particular programs or services.

(b) The enrollment, the trends in enrollment, and their effect upon the department or program.

(c) The present and anticipated service needs of the college and its students and prospective students.

(d) Information concerning faculty and administrative vacancies occurring through retirement, resignation, and professional and other leave.

[Ch. 132V-22 WAC p. 3]

Before arriving at proposed reduction in force decisions, the president will confer with representatives of the designated faculty organization and the student government regarding proposed reduction plans and will consider their opinions in the matter.

(5) Order of reduction: If a reduction is determined to be necessary within a layoff unit, the employment needs of the department or program shall be the primary basis for identifying the order of reduction in force. First consideration will also be given to seniority as defined in article 9.00 of the negotiated agreement, provided that such consideration results in the retention of qualified academic employees to replace and perform the necessary duties of the personnel reduced. In determining what duties an academic employee is qualified to perform, the president will consider, but not be limited to:

- (a) General professional experience;
- (b) Actual work experience in the area under consideration; and
- (c) Educational background.

(6) Right to recall: A full-time faculty member whose contract is not renewed as a result of this reduction in force procedure shall have the right to recall to any faculty position, either a newly created position or a vacancy: Provided, That the individual is determined to be qualified for such position by the president of the college following recommendations by the supervising dean, department chairman and/or program director. The right of recall shall extend two years from date of layoff.

(7) Reduction in force review committee: A reduction in force review committee shall be composed of three members of the faculty who shall be selected by a majority of the faculty and faculty department heads acting in a body, one administrator who shall be appointed by the college president, and one student representative who shall be chosen by the student association of the college in such a manner as the members thereof shall determine.

(8) Preliminary procedure for reduction in force: When reason arises to dismiss an academic employee as a result of reduction in force, the initial step shall be for the appropriate administrative officer to discuss the matter with him/her in personal conference. At this conference, the academic employee may request the presence of a union representative. The matter may be terminated by mutual consent at this point; but if an adjustment does not result, the case shall be referred to the president of the college. If the president of the college still deems dismissal to be necessary, the dismissal process shall be governed by the following procedure:

(a) At least thirty calendar days prior to the convening of the dismissal review committee, the union and the academic employee who is threatened with dismissal by the appointing authority shall be furnished with written notice which shall include grounds for dismissal, a statement of the legal authority and jurisdiction of the president's notice, and information of the employee's right of appeal. The notification shall be furnished directly to the employee during working hours, or if this is not possible because of the absence of the employee, it shall be mailed by certified return receipt mail to the academic employee's last known address.

(b) A reduction in force review committee will be established. The reduction in force review committee shall be the

same as the tenure review committee. If the tenure review committee is no longer available, the reduction in force review committee shall have the same membership as required for a tenure review committee for a probationary academic employee. The members representing academic employees shall be selected by a majority of the academic employees and department chairmen acting as a body. The president shall deliver to the reduction in force review committee the statement of charges provided to the employee.

(c) In the event of a reduction in force, the reduction in force review committee shall conduct a hearing. At the hearing, the academic employee affected shall have the opportunity to be represented by counsel, to respond to and present evidence and arguments on all issues involved, and to examine and cross-examine witnesses. At the hearing, the academic employee shall have the opportunity for his counsel to protect his due process rights to respond to and present evidence and arguments on all issues involved and to examine and cross-examine witnesses.

(d) Subsequent steps in the procedure for reduction in force are specified in WAC 132V-22-200 of these rules.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-100, filed 3/19/81; Order 16, § 132V-22-100, filed 12/28/73; Order 14, § 132V-22-100, filed 6/29/73.]

WAC 132V-22-200 Hearing procedure relating to dismissal for cause and reduction in force.

(1) The required notice of dismissal for cause or reduction in force to the affected academic employee(s) shall include notice of the right of a hearing before the review committee and that if the affected employee does not request such a hearing, from the president of the college within ten days after the effective date of separation from the payroll. Management will request a written determination from the employee as to whether he/she wishes to avail themselves of the right to a hearing. If after five additional days the academic employee fails to respond, this failure to request a hearing shall constitute acceptance of dismissal and waiver of any right to a hearing under the provisions of this negotiated agreement.

(2) In the event the president receives a request for a hearing, all parties shall be afforded an opportunity for a hearing after not less than twenty days' notice. The notice shall include:

- (a) A statement of the time, place, and nature of the proceeding;
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (c) A reference to the particular rules of the colleges that are involved;
- (d) A short and plain statement [of] [to] the matters asserted.

(3) Prior to the time of the hearing, the board and the union shall request an impartial hearing officer from the public employment relations commission to sit as a nonvoting member of the committee. It shall be his/her responsibility to:

- (a) Make all rulings regarding the evidentiary and procedural issues presented during the course of the dismissal review committee hearings;
- (b) Meet and confer with the members of the dismissal review committee and advise them in regard to procedural

and evidentiary issues considered during the course of the committee's deliberations;

(c) Appoint a court reporter, who shall operate at the direction of the presiding officer and shall record all testimony, receive all documents and other evidence introduced during the course of [the] hearings, and record any other matters [related] [relating] to the hearing as directed by the presiding officer;

(d) Prepare the record if requested under subsection (6) herein.

(4) Opportunity shall be afforded all parties to respond and present evidence and argument on all [issues] [issued] involved, and to examine and cross-examine witnesses.

(5) Oral proceedings shall be transcribed, if necessary, for the purposes of rehearing or court reviews. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request [therefor] [thereof] and payment of the costs thereof.

[(6)] The record in a contested case shall include:

(a) All documents, motions, and intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and rulings thereon;

(e) Proposed findings and exceptions; and

(f) Any decision[s], opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

[(8)] The college or its authorized hearing officer or committee may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence. No person shall be compelled to divulge information which he/she could not be compelled to divulge in a court of common law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the college. No person shall be compelled to divulge information which he/she could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties.

(9) Within twenty days following the review hearing, the review committee shall prepare recommendations on the action they propose be taken and submit such recommendations to the appointing authority. A copy of the recommendations shall be given [to] the academic employee involved and the president.

(10) The board shall meet within thirty days after receipt of the dismissal review committee recommendations to consider those recommendations. The academic employee affected by the review committee recommendations may request a hearing before the board within ten days after receipt of the said recommendations. If board action affects academic employees other than the academic employee against whom dismissal action was originally taken, those academic employees shall be guaranteed protection of the entire dismissal for cause hearing procedure provided for herein. Within thirty days after the hearing before the board,

the appointing authority shall inform the affected academic employee of their decision by letter.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-200, filed 3/19/81; Order 16, § 132V-22-200, filed 12/28/73.]

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